THE NOVA SCOTIA SUPREME COURT (FAMILY DIVISION):

A SUMMARY OF EVALUATION RESEARCH CONDUCTED DURING THE PERIOD 1999 - 2001

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TABLE OF CONTENTS

Section	Page
Executive Summary	i
Introduction	1
Background	2
Presentation of results	10
Evaluation Framework	10
Methodology	11
Conciliation	12
Mediation	17
Parent Education	21
Assessments	26
General Court Administration	27
Conclusions and Recommendations	31
References	34
Appendices	
Appendix A - Flowcharts of dispute resolution processes	
Appendix B - Current staff complement and duties	
Appendix C - Methodology	
Appendix D - Family Division Caseload	
Appendix E - Terms and definitions	

REPORT ON THE EVALUATION OF THE SUPREME COURT (FAMILY DIVISION) OF NOVA SCOTIA

EXECUTIVE SUMMARY

The creation of the Family Division of the Supreme Court signifies a major change in direction in the practice of family law in Nova Scotia. The establishment of the new court system aimed to advance the development of a wider spectrum of responses, in matters of separation and divorce, including education and conflict resolution as set out by the philosophy and policy direction of *The Nova Scotia Court Structure Task Force Report*.

The goals of the Family Division were to provide effective family law dispute resolution mechanisms; a high level of client and stakeholder satisfaction with services offered, effective, efficient and economical administrative practices; and a positive work environment for staff.

The Evaluation Committee's mandate was to support the Implementation Committee in creating a performance measurement system for the new Family Division. The evaluation utilized a number of information gathering strategies including surveys (exit, mail-out and telephone); focus groups with stakeholders including lawyers, community groups and court staff; analysis of case data; and analysis of time sheet data of conciliators.

This report provides a synopsis of the studies undertaken during the first two years of operation of the Family Division which focused on measuring client satisfaction, analyzing case processing statistics, and obtaining client and stakeholder group feedback for program improvement. The evaluation was restricted to family matters of divorce and separation and primarily focused on the programs of conciliation, mediation and parent education. There was also some feedback provided on assessments that has been included.

Key program highlights include:

- It is estimated that ADR processes reduce # of cases going to judiciary for settlement by about 25%.
- A large percentage of clients indicated it is better to go through conciliation rather than directly to court (80%) and the conciliation process was noted as more humane than court allowing parties more control over the process with the ability to develop their own solutions.
- It appeared that client satisfaction was impacted by case outcome in both conciliation and

mediation. Client satisfaction was higher in cases that reached a full settlement than with cases where no settlement or a partial settlement was reached.

- 51% of cases going through conciliation reached full settlement and 7% partial settlement.
- 52% of clients were unrepresented during the conciliation process and staff estimated this figure to be higher at intake - closer to 70%. Those unrepresented at mediation was much lower - 37%.
- A high percentage of clients indicated that they felt safe (i.e., 97% of conciliation clients, 98% of mediation clients and 96% of Parent Education clients).
- Conciliators and mediators were considered to be fair and impartial by clients (92% indicated yes for conciliation; 93% indicated yes for mediation).
- Majority of clients stated they could make their issues known during ADR process (81% conciliation; 78% mediation)
- 77% of clients were 'fully' or 'somewhat' satisfied with the outcome of conciliation.
- 88% of the respondents scored the performance of the conciliator, on a 10 point scale, at 7 or higher.
- 98% of clients indicated they were satisfied with the presenters/facilitators of the Parent Education Program.
- 95% of participants indicated they would recommend Parent Education to separating or divorcing couples.
- The greatest issues reported by focus group participants were delays in accessing intake, conciliation and court; high volume of paperwork; and poor facilities, particularly in Halifax.

Recommendations include:

Service Delivery

1. Review the Family Division goals and revisit the original vision of a service centre as part of the Family Division and determine priorities and direction in relation to meeting client needs for information, education and case resolution.
2. Clarify and align outcomes and indicators of success for parent education, conciliation, mediation and other operating programs to help assess their effectiveness and future direction within the current financial context.

3. Clarify the relationship between mediation and conciliation and streamline the process, where possible, with reduction in duplication and better targeting of cases to improve effectiveness and efficiency throughout the court process.

4. Establish partnerships with other community groups and government agencies, where possible, to deliver other programs to meet the needs of court clients such as those in high conflict situations.

5. Give priority to revision of forms to reduce paperwork.

6. Establish quality service standards and an audit/evaluation process.

7. Establish an operational plan to reduce the court delays and monitor its effectiveness including:
   - an assessment of the ability of current staffing resources to address caseload demands in an effective and efficient manner and in accordance with established standards;
   - strategies for streamlining administrative processes;
   - strategies for utilizing administrative staff to reduce clerical duties of conciliators; and
   - strategies for more quickly filling or responding to staff vacancies where the loss could contribute to delays.

8. Communicate evaluation results, established priorities, and progress to stakeholders.

Research/Evaluation

9. Revisit evaluation framework and evaluation planning.

10. Develop improved methods for retrieving case processing statistics.

11. Develop case processing statistics for fiscal year 2000/01 for conciliation and mediation.

12. Determine the duration of conciliation/mediation agreements and any causes of breakdown.

13. Determine the satisfaction rates for staff.

14. Complete a cost-effectiveness study looking at mediation and conciliation.

15. Conduct a follow-up survey of Parent Education participants to determine impacts of program.

16. Conduct an analysis of the time and flow of case processing.

17. Determine the level of case "bumping" for *Children and Family Services Act* matters.

18. Determine a plan for the evaluation of the other programs/services.

1.0 INTRODUCTION

The evaluation of the Supreme Court (Family Division) began during the implementation phase of the new court. An evaluation committee chaired by Kit Waters, Director of Policy, Planning and Research of the Department of Justice was established during the planning stage of the Family Division and acted as a resource throughout the design and implementation of the evaluation work. The evaluation was aimed at providing information for program improvement
to be utilized by directors and court administrators. The scope of the evaluation was restricted to family matters of divorce and separation and the programs of conciliation, mediation and parent education.

The Committee was comprised of senior management of Court Services Division of the Department of Justice including Jock MacKinnon, Gretchen Pohlkamp (recently replaced by Lynn Hartwell); Sarah Osborne, Court Supervisor with HRM Family Division; Ed Kirby of Finance with Department of Justice; Charles Purcell of Information Technology with Department of Justice; Stella Lord, researcher with the Nova Scotia Advisory Council on the Status of Women; and Steve Mattson, lawyer with Nova Scotia Legal Aid. Other members included Robert Roe, the Coordinator of Program Evaluation of Policy, Planning and Research who led the day-to-day operations of the evaluation and Cheryl Hebert, Consultant of ADR/Mediation of Court Services Division who provided input on the design and assisted with administration of the studies, as well as, interpretation of results.

The Evaluation Committee's mandate was to support the Implementation Committee in creating a performance measurement system for the new Family Division. To that end, members of the Committee participated in defining system goals, selecting appropriate methodologies for data collection, identifying financial resources for undertaking evaluation work and creating an evaluation work plan.

The evaluation utilized a number of information gathering strategies including surveys (exit, mail-out and telephone); focus groups with stakeholders including lawyers, community groups and court staff; analysis of case data; and analysis of time sheet data of conciliators. The collection of data was aided by the cooperation and assistance of court administrators, court staff and mediators. They also provided valuable feedback on all of the reports.

As most of the data was collected during the early stage of the implementation of the Family Division, there was an opportunity for administrators and staff to apply the knowledge they were gaining to make improvements to program and service administration and delivery. Therefore, many of the issues presented in the report have already been addressed or are being addressed. Some were presented in the *Plan to Address and Manage Concerns Regarding the Operation of the Supreme Court (Family Division) Halifax Regional Municipality*, May 2001.

The fact that the studies were carried out over a two year period means that responses captured in earlier studies may have been more negative than those reported at a later date, when program improvements were being made. It is also important to note that issues raised during the focus group

discussions may have been raised by only a few participants and on some issues there were diverging viewpoints on specific issues.

The goals of this report are:

a) To provide a synopsis of the studies undertaken during the first two years of operation of the Family Division which focused on monitoring client satisfaction, analysis of case processing statistics, and obtaining feedback for program improvement related to conciliation, mediation and parent education. There was also some feedback provided on assessments during focus group discussions that has been included.

B) To provide recommendations for the purpose of program improvement and development in the areas of service delivery and research and evaluation. During the focus group discussions a number of issues were raised regarding court administration and therefore a section summarizing the issues and recommendations is included in this report

The report also includes some background material on the Family Division, including major activities during the first two years of operation.[1]

2.0 BACKGROUND

2.1 Implementation of the Supreme Court (Family Division)

The Supreme Court (Family Division) began operation April 6, 1999 at 3 sites: Halifax, Sydney and Port Hawkesbury. The impetus for the new court originated in 1991 as a result of the report issued by the *Nova Scotia Court Structure Task Force*. The Task Force report recommended the establishment of a new family court system to improve the adjudication of family law matters through increased opportunities for less adversarial resolution of issues and increased services to support people involved in family law conflict.

The rationale for the change was based on the need to address a number of recognized problems within the Family Court system including: the limited jurisdiction of the Family Court; duplication of court appearances; docket days being too far apart; lack of authority for staff to make even limited interim orders; lack of assistance for parties beyond intake; court appearance required for every matter; closed court; and limited options for resolution of disputes outside of court.

[1]Some of the background material was adapted from two proposals submitted to the Federal Department of Justice regarding firstly, the implementation of the Family Division and secondly, the expansion of the new court system province-wide.

In 1998, after consultations with the bar and the judiciary, the Province of Nova Scotia formally approached the federal government to support the creation of a Family Division, specifically in the form of judicial appointments. The Province agreed to commit the salaries and benefits of two Family court judges who had retired as well as the salaries and benefits of all judges elevated from the Family Court to the Supreme Court (Family Division). The Province also agreed to provide additional space and renovations to existing space to support the services of the Family Division. The appointment of federal judges allowed the Province to divert the salaries and benefits to services and the Federal Government has continued to support services through the Child Support Guidelines initiative.[2]

With the support of both levels of government, two Department of Justice staff traveled to several jurisdictions across the country to examine other family law court and service delivery models. Upon their return, they assessed best practices and used the knowledge to conceptualize the model for the Family Division. A consultant hired in late August of 1998, with the support of the federal government through the Child Support Guidelines Initiative, examined more closely formal dispute resolution programs and, in conjunction with an ADR Committee, made recommendations for development of the structure and model for the service to operate within the Family Division.

The new system sought to: combine Federal and Provincial jurisdictions over family matters, therefore reducing duplication; increase authority of the court for common law property issues (interim sole possession - matrimonial residence); reduce the need to go to court without preventing access; create a new docketing system; establish quicker access to senior staff (Court Officers) with the authority to issue limited orders (interim maintenance table amount, orders to disclose, orders to appear and disclose); and pre- and post-court services with the right to confer with counsel at all stages.

To make this vision a reality, the Department of Justice assembled an Implementation Committee, inviting the participation of judges, court staff, and lawyers. Twenty-five subcommittees, with nearly 160 members, participated for over a year to plan and prepare the court for implementation.

2.2 The Legislative and Procedural Framework

The creation of a legislative and procedural framework was an essential early step in the development and realization of the approach to family law envisioned for the Family Division.

In support of the February 1998 proposal, the Government of Nova Scotia amended the *Judicature Act of Nova Scotia* in December 1997, to enable the establishment of the Family Division of the Supreme Court. The *Judicature Act* confers the jurisdiction of the court, establishes the ability to appeal from the Family Division to the Court of Appeal, and gives the judiciary the authority to make rules about the court process.

[2]It should noted that the implementation of the new Family Division resulted in an overall decrease in the number of judges providing service in the area of Family Law compared to the previous Family Court system and also resulted in an increase in jurisdiction to deal with divorce and matrimonial property issues.

Rule 70 was established and is really the framework upon which the Family Division is structured. This Rule contains many unique features that support the overall vision of the Family Division. For example, Rule 70 gives court staff a larger role in ensuring disclosure compliance from both the parties to the action and from third parties, such as employers.

Rule 69 was also created for the Family Division. This Rule deals with child protection matters and is largely an adaptation of the rules and procedures in place in the Family Court to support the administration of the *Children and Family Services Act* in the Family Division. *Rule 69* now applies throughout the province.

Jurisdiction of the Supreme Court Family Division now includes: the *Adult Protection Act*; *Children and Family Services Act*; *Divorce Act*; *Employment of Children Act*; *Family Maintenance Act*; *Matrimonial Property Act*; *Maintenance Orders Enforcement Act*; Sections 172 of the Criminal Code regarding persons who endanger the morals of children; Section 215 of the Criminal Code regarding people who fail to provide the necessities of life for a spouse or child under the age of 16 years; Section 264.1 and 265 of the Criminal Code dealing with threats and common assaults involving husband and wife or parent and child; Section 810 and 811 of the Criminal Code dealing with the application of peace bonds and the breach of these bonds; Sections of the Solemnization of Marriage Act relating to the performance of marriage and applications from persons under the age of 16 who desire permission to marry.

2.3 The Program/Service Delivery Model

The establishment of the Family Division provided an opportunity to advance the development of a wider spectrum of responses, as set out by the philosophy and policy direction of *The Nova Scotia Court Structure Task Force Report*. Some of the programs and services, including Parent Education and Mediation, had been in operation in some locations in the province and the implementation of the Family Division provided an opportunity to formalize and/or expand their delivery.

There are three main categories of programs/services that act as alternatives to the court process or complement the court process:

1) formal dispute resolution services including conciliation and mediation[3];
2) information/education programs including child support guidelines calculation, parent education, separation education and court assistance; and
3) court services including assessments and supervised access.

[3]Pre-trial settlement conferences are also part of the ADR continuum providing opportunities for diversion. Where matters are scheduled for a court hearing of one day duration, or longer, the parties are required to attend a settlement pre-trial where the parties meet with a judge to review the issues and explore the possibility of settlement. Parties may request this option for matters less than one day, as well.

In addition, court staff liaise with, and make referrals to, various legal and community services.

The next section of the report on *Presentation of Results* provides a more detailed description of conciliation, mediation and parent education.

Formal Dispute Resolution Services

Conciliation provides the first opportunity to resolve matters through non adversarial means. As identified in Rule 70, the "conciliator" provides the entry point to the Family Division and carries out two main functions:
a) to act as a high level **intake** person to gather basic information to start the process, provide information about the court process, and to ensure disclosure is complete; and
b) to **conciliate** issues between the parties in matters of child support and custody and access through identification, facilitation and documentation of areas of possible agreement, including the drafting of consent orders, directing matters to court, where immediate action is warranted, and making an interim order for child support, where appropriate and enabled under *Rule 70.*

In both functions the conciliator is guided by the responsibility to conduct appropriate screening for violence and abuse issues, make appropriate referrals to court programs/services including Mediation, Parent Education, Court Assistance and Child Support Guidelines calculation and to external resources including counseling, Legal Aid/ lawyer referral, Maintenance Enforcement Program, and other community programs.

Mediation provides an additional opportunity for parties to resolve differences in matters relating to custody, access, support or maintenance, and property without going to court. The Department will fund up to eight hours of time for the service which is calculated according to a sliding fee scale.

The goals of the service are:
1) To provide an alternative method of resolving issues, where appropriate;
2) To encourage the non-adversarial resolution of issues; and,
3) To develop an agreement acceptable to both parties.

Appendix A presents several charts illustrating the flow of case processing relating to the different dispute resolution services.

Information/Education Programs

Child Support Guidelines Calculation is provided through the support of funding received under the Child Support Guidelines. Intake assistants assist applicants in the beginning stage of the court process to: provide appropriate information on Child Support Guidelines and to ensure the completeness of the applicant's file before forwarding it to court for consideration.
Each court presently has staff trained and designated to use the *ChildView*™ software to perform child support calculations for unrepresented clients (for information purposes only).

The ***Parent Education Program*** assists parents in identifying the effects of separation and divorce on children and to identify and practice ways to keep children from getting "caught in the middle". The program is mandatory in the three Family Division sites and operates as a voluntary program in New Glasgow and Kentville family courts. The goals of the program are:

1) To increase parents' awareness of the impact of parental conflict on children;
2) To improve communication between parents about their children's needs; and
3) To provide new ways to avoid placing children in the middle of issues between their parents.

Advisory committees have been set up in each community to assist in the operation of the program. The judges also volunteer their time by speaking to each group at each session, which are offered on evenings and weekends.

In addition to providing the training for the facilitators, the Province provides security to ensure the safety of those attending.

A partnership has been established with Family Services of Support Association in Halifax to pilot a program for adults going through the court process who are experiencing high conflict. Monies for the program were obtained through the Federal Department of Justice, Crime Prevention Fund. Nova Scotia Department of Justice staff will assist in the design and evaluation of the program and will refer appropriate clients. A series of group sessions will operate from April to September, 2002.

The ***Separation Education Program*** was designed to help adults without children going through a separation or divorce by providing them with information on the court process and the emotional effects of separation and divorce. The program goals were established as follows:

1) To provide information on the issues and decisions that may need to be made as a result of separation or divorce;
2) To provide information on the court process; and
3) To focus on the importance of cooperation rather than conflict in resolving the legal issues following a separation.

This program has not been implemented, although it is a mandated program through *Rule 70*. The reasons for delaying implementation are: the number of people needing the program would be relatively small[4] raising logistical issues about frequency of scheduling and allocation of resources; some of the information provided through Separation Education could possibly be integrated into the Parent Education Program and adults without children could attend that program; and there are questions about the appropriateness of mandating a program addressing emotional healing and whether it is more appropriately placed outside the court.

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[4]Based on the number of cases for April 1, 2000 - March 31, 2001 and the statistics on Divorce cases (approximately 50% are couples without children and at least 80% are uncontested) there would be 130 cases for Halifax, 32 cases for Sydney, and 6 cases for Port Hawesbury.

The ***Court Assistance Program*** has been designed to assist self-represented parties to prepare for court, recognizing the increasing number of self-represented clients who arrive in court unprepared to properly present evidence. The focus of the program is on getting ready for court and on the procedures that must be followed both before and during the hearing. It is expected that when in operation, the program will save significant court time now expended explaining basic rules of procedure and evidence as well as assisting self-represented clients in presenting their case.

To date the focus has been on preparing materials for the program including: a) a twenty minute video, *Representing Yourself in Court*, written and produced locally with funding from the Child Support Guidelines and from the province of Nova Scotia; and b) a booklet *Terms and Definitions* developed by the Court Assistance Committee. The plan is to deliver a two hour session, facilitated by a lawyer and court officer using the above resources.

Court Services

Assessments

In exceptional circumstances, justices of the Supreme Court (Family Division) order parenting assessments when seeking objective information about the child or family situations in a child custody or access matter. Assessments are usually conducted by a certified social worker or psychologist.

The main objective of an assessment is to provide the Court with information and/or recommendations on how the needs of the child may best be met. To meet this objective, an assessor will meet with both parents and may also meet with the child, grandparents, childcare providers, teachers, and appropriate others. The assessor's focus is on what is in the best interests of the child.

Supervised Access

The Supervised Access Program is designed to comprise three components: supervised exchange, supervised access visits and supervised access visits with an assessment report for court.

The Department of Justice has contracted with a community organization, Veith House, that is already offering supervised access services in the Halifax Regional Municipality on an interim basis. This arrangement will remain in place until a province-wide program is developed.

The *Supervised Exchange* is intended for situations where there is no threat to the child and where supervision of the accessing parent and the child is not required but there is high conflict between the partners. In the supervised exchange program, the exchange of the child for access visits can be conducted on neutral territory. This option is used in high conflict cases when the parties are unable to agree on a neutral party agreeable to them to perform this role.

The *Supervised Access Visits* component of the program provides a trained supervisor to be with the accessing parent and child in the Veith House supervised access room. The supervised access visits are aimed to protect the safety and well-being of children and their parents. The court may also order an

assessment report be prepared by the professional supervising the visits.

A *Best Practices Manual* has been developed by a staff person based on Ontario's manual. She is currently working on approaching organizations that have the ability to deliver the program with the aim of offering it in three locations (i.e., Halifax, Sydney and Port Hawkesbury). It is expected the program will be implemented by the end of the 2000/2001 fiscal year.

2.4 Administration

Staffing

Appendix B provides an overview of the staffing structure for the three Family Division sites. At the time of writing this report, staff positions included 34 people in the Halifax Regional Municipality, 19 in Sydney and 5 in Port Hawkesbury. It is important to recognize that some staff are not full time as they have responsibilities with other courts, for example, the court administrator for Port Hawkesbury also provides administration to the Antigonish Justice Centre.

It is also important to note that there have been a number of changes in staffing since the start of the Family Division, including short and long-term medical leaves and staff replacements. The full complement of staff has not always been realized which has impacted on service delivery, particularly in the Halifax location.

Staff Training

Staff training has been an important component of the implementation of the Family Division given the new emphasis on ADR and the new and expanded roles for court staff. Training to support all staff in this transition was a priority.

Training was provided to address the new rules and procedures and to cross-train staff to deal with legislation and issues not previously within their area of knowledge. Most of the staff working in the Family Division formerly worked in the Family Court. However, some staff, from the divorce area, transferred from the Supreme Court. It was, therefore, necessary to educate the former Family Court staff about divorce, adoption, civil matters as well as conciliation and mediation. The former Supreme Court staff needed to be educated about child protection, young offender matters, and adult protection matters.

Communication

The provision of information and education on the rationale, development and structure of the Family Division, was achieved through a series of targeted information sessions. Approximately 30 sessions were designed and delivered by Department of Justice staff, prior to or at the beginning of, implementation of the Family Division. The content of these sessions varied depending on the audience

which included such groups as lawyers and legal staff, community groups and agencies, government departments including Community Services and Health, court assessors, and mediators (during implementation). Information exchanges continue to be offered.

The *Family Division Update*, a newsletter created by the Department, assisted with communication on the implementation phase. The newsletter was distributed to all lawyers and judges in the province, the courts throughout the province, and to anyone who expressed a desire to be on the mailing list.

Information sheets were developed on the Family Division and the various programs. A Guide On Using Mediation In Family Law Matters: *Mediation What Do I Need To Know?* was produced. These publications have been widely distributed.

The Department of Justice website was also utilized as a tool for communication and information. For example, *Rule 70* was on the website during the initial implementation phase and all publications have been put on the website.

Site Renovations

Plans to enhance the facilities to accommodate the new services of the Family Division were put in place. In Sydney, the court transferred to Harbour Place, a justice complex housing other judges and staff of the Supreme and Provincial courts, following extensive renovation. Space for Parent Education and Mediation Services are also part of the new facility. The Province also has plans for updating the court in the Halifax Regional Municipality location, creating a new space for the Parent Education Program and Mediation Services as well as other programs. The Department of Justice also has plans for new court space in Port Hawkesbury to house the court.

Automation

The new Family Division initiated the development of an information system to capture case relevant data and improve workflow. The system is based on a pre-existing system used by the Supreme Court (i.e., the Civil Index) for capturing information relating to civil litigation.[5] The original Family Court system did not make extensive use of information technology in terms of capturing relevant case information for statistical purposes or for automating workflow.

The information system has undergone extensive development/revision since the time the new Division was implemented with various changes being planned including the development of a caution screen for

[5]There were a number of committees which provided input into the development of the information system including the evaluation committee. At present the Information Technology committee of Court Services oversees issues relating to the operation of the information system.

flagging domestic violence cases and statistical reports to provide case processing information.[6] Originally, the system was operating only in the Halifax Metro area but was subsequently rolled out, first to Sydney and then to Port Hawkesbury. Case data was back loaded onto the new system at the Sydney and Port Hawkesbury locations.

Evaluation Process

Evaluation of the implementation and ongoing court services has been a priority for the Family Division. The focus of the evaluation of the Family Division has been on monitoring programs, particularly client satisfaction and building the infrastructure for collection of data relating to case processing characteristics.

An evaluation committee chaired by the Director of Policy, Planning and Research was established and comprised: the Coordinator of Program Evaluation of Policy, Planning and Research, Director of Family Court Services Division, Consultant in Mediation/ADR, staff of the Family Division of the Halifax Regional Municipality, and representatives of Legal Aid and the Nova Scotia Advisory Council on the Status of Women. The Committee acted as a resource in the establishment of the evaluation framework and methodologies of the studies.

3.0 PRESENTATION OF RESULTS

3.1 Evaluation Framework

An evaluation framework was established based on the following goals of the Family Division.

Tier One of the framework represents the goals of the new system which corresponds to the original vision which was formulated, specifically, to have a more humane and less adversarial system for dealing with family law issues. This vision is one of promoting fair and effective alternatives to the traditional litigation process in the attempt to reduce the negative impact of separation and/or divorce on family functioning. The three central programs of conciliation, mediation and parent education were reviewed as part of Tier One.

Goal: Provide effective family law dispute resolution mechanisms

outcome 1: A system that reduces the adversarial nature of cases

outcome 2: A system that has an appropriate level of cost for clients/litigants

[6] A number of changes to the information system have been implemented, however there are a number of changes which have not yet been put into place at the time this report was being written such as: creation of statistical reports, implementation of the caution screen for domestic violence cases etc..

outcome 3: A system that is effective in resolving cases at the earliest possible stage of the court process

outcome 4: A system that reduces the negative impact of separation and/or divorce on family functioning

Goal: Achieve a high level of client and stakeholder group satisfaction with services offered

outcome 1: A high level of client and stakeholder group satisfaction with programming and services of the Family Division.

outcome 2: A system that is perceived as providing a fair resolution of cases

Tier Two of the framework represents the administrative goals of the new system. The administrative goals specify the overall direction for management in ensuring that the Family Division can continue to meet its obligations to the public by ensuring that a well-administered system exists which effectively fosters a positive work environment for the staff that deliver the services to the people using the courts.

Goal: Ensure effective, efficient and economical administrative practices.

outcome 1: A system that has effective administrative practices

outcome 2: A system that operates in an efficient manner

outcome 3: A system that operates in an economical manner

Goal: Provide a positive work environment for staff of the Family Division.

outcome 1: Well-trained staff

outcome 2: Good work conditions

3.2 Methodology

There were several different strategies employed to gather information for the Family Division evaluation. A brief summary of the different methods follows. A more complete description of the methodology, including the time period over which information was gathered, is provided in *Appendix C*.

Exit surveys- For the Conciliation, Mediation and Parent Education programs, clients were provided with feedback sheets containing a mix of closed and open-ended questions.

Mail-Out surveys - Facilitators/presenters associated with the Parent Education program were mailed out surveys containing a mix of closed and open-ended questions to obtain feedback on program operation and curriculum/content.

Telephone surveys - For the Conciliation, Mediation and Parent Education programs, telephone surveys were conducted of clients.

Focus groups - A number of focus group sessions were held involving external stakeholders (i.e.,

community groups and lawyers) and internal stakeholder groups (i.e., staff of the Family Division).

Case data analysis - Coding sheets were developed for mediation cases and for conciliation cases to code case-level data and create summary statistics on key aspects of case processing, such as: the issues associated with the case, the length of time to process the case, the outcome associated with participation in a specific process, etc.

Time sheet analysis - Conciliators in the Family Division filled out time sheets indicating the amount of time spent on various work activities. These time sheets were then used to create summary statistics.

3.3 Conciliation

Program Description:

Conciliation is the entry point to the Family Division and first approach to resolve matters in a non adversarial way. The conciliator role is defined under *Rule 70* and has two main responsibilities: 1) oversee the intake process; and, 2) identify issues between the parties in matters of child support and custody/access and either attempt to resolve the issues at the conciliation level or refer the case to court or to mediation.

There are a number of key outcomes associated with the conciliation process including:

1) provide a service which assists in reducing the adversarial nature of cases;
2) provide an appropriate level of cost for clients;
3) resolve cases at the earliest possible stage in the litigation process; and,
4) provide the conciliation process over an appropriate amount of time (i.e., minimize delay).

All cases proceed through the intake process, however, not all matters are deemed amenable to conciliation. There may be matters that need to go directly to Chambers such as emergencies. As well, the type of meeting could vary (joint, separate, shuttle) depending on the needs and risks presented by the clients. Most cases dealt with at conciliation are new applications and variations under the *Family Maintenance Act* and variations under the *Divorce Act*. Court staff are encouraged to refer cases to mediation that may require more time and could be helped by more dialogue between the parties.

Staffing

The service is delivered by Justice Officer IV (Program Administration Officer III) staff. The current staff complement is described below.[7]

[7]During the period the data was collected (January to June 2000) there were seven Justice Officer IV's in Halifax conducting the conciliations full time and four Justice Officer IV's in Sydney (one of whom also co-ordinated the parent ed program as part of his duties).

a) Halifax

At the time of writing this report there were 7 permanent positions in the Halifax Regional Municipality:

- 4 full time conciliation responsibility for coordination
- 1 conciliation plus responsibility for coordination of mediation
- 2 vacant to be filled by casual positions

There was also a term position whose role has been program development including parent education and supervised access. The staff complement has changed significantly during the two years of operation of the Family Division with a moderate degree of staff turnover and a reduction in the number of conciliators from the initial period of operation.

b) Sydney

In Sydney there were 4 permanent positions and 1 term position:

- 3 full time conciliation
- 1 conciliation plus responsibility for coordination of mediation
- 1 conciliation plus responsibility for coordination of parent education

c) Port Hawkesbury

In Port Hawkesbury there was 1 permanent position and 1 term position:

- 1 conciliation plus responsibility for coordination of mediation
- 1 conciliation plus responsibility for coordination of parent education

Client Caseload

Appendix D provides an overview of new cases under the *Family Maintenance Act* and divorce petitions for the most current year April 1, 2000 - March 31, 2001. The figures show that Halifax had a total caseload of 2470, Sydney 1166, and Port Hawkesbury 238. It is important to note that Halifax had 4.5 times the number of divorce cases than Sydney during that time frame. However, the number of cases under the *Family Maintenance Act* is quite similar between the two locations with Halifax having 1.5 times the number of FMA cases than Sydney.

Justice Officer IV staff provide a conciliation role in FMA matters, that are not emergencies, and contested divorces. The number of contested divorces is 15 - 20% of all divorce cases. Cases that proceed beyond the initial stage of processing (i.e., intake and issue identification) to a conciliation meeting or mediation is estimated to be about 44%.

Program Costs

Estimated costs for the conciliation service for all three locations are $976,500 per year which are composed of labour and overhead costs. The estimate for labour costs is based on a full complement of 15 staff (7 Halifax, 5 Sydney and 2 Port Hawkesbury) at a median salary of $52,500 including benefits totaling $787,500. Estimated overhead costs are calculated by multiplying labour costs by an overhead

multiplier totaling approximately 189,000.[8]

Methodologies Used:

1) Analysis of case data (cases selected from January to June, 2000)
2) Analysis of conciliator time sheet data (October 30 to December 1, 2000).
3) Telephone survey of conciliation clients (April to July 2001)
4) Client exit survey (January to March 2000)
5) Stakeholder focus groups (November to December 2000)

Key Findings:

Analysis of case data

- Approximately half of all cases at conciliation had a lawyer associated with them.
- For those cases with a lawyer, approximately half involved both parties having legal representation;
- Lawyers were not often present at conciliation meetings (less than 10% of all conciliation sessions conducted).
- The majority of cases in the Family Division involved issues of child support and custody/access.
- For those cases that go through conciliation, approximately half of the cases resulted in a full agreement (i.e., consent order) while only a small percentage (7%) had a partial agreement.
- The large majority of conciliation cases took three (1 - 1.5 hour) sessions or less.
- The majority of sessions were individual or joint compared to teleconference or shuttle sessions.
- For approximately half the cases, the conciliation process took 6 months or less from the date the application was signed by the applicant or package filed by lawyer and date that consent order sent to judge, court referral, mediation referral, lawyer referral, case adjourned without date assigned.

Client Response

Overall, clients were positive towards the conciliation service and the conciliator:

- 92% indicated that the conciliator was fair and impartial;
- 81% indicated that they could fully make their issues known during conciliation;
- 97% indicated that they felt safe during conciliation;
- 77% were 'fully' or 'somewhat' satisfied with the outcome of conciliation;
- 88% of the respondents scored the performance of the conciliator, on a 10 point scale, at 7 or higher; and,
- 80% of respondents indicated that it would **not** have been preferable to bypass

[8]The overhead multiplier figure is derived from the overall budget for the Court Services Division where approximately 81% of the budget is comprised of labour costs (i.e., salaries and benefits) and the remaining 19% is associated with other costs identified as overhead costs in the context of this study. The overhead multiplier figure is derived using the formula: $81 + (81 \bullet x) = 100$ where x equals overhead costs. Solving for x, the overhead multiplier is .24.

conciliation and go directly to court.[9]

Several **positive** aspects of conciliation were identified by respondents including:

- conciliation staff were helpful and fair;
- conciliation was not as stressful as going to court;
- conciliation allowed the parties to come to an agreement rather than having one imposed;
- conciliation helped to reduce the demands on the court;
- conciliation allowed the parties more control over their case rather than having it controlled by a lawyer;
- conciliation was seen by some respondents as reducing delay in the processing of their case.

Several **negative** aspects of conciliation were identified by respondents including:

- conciliation may not have been necessary as case issues had been resolved by parties prior to meeting with the conciliator;
- a perception of anti-male bias in the system;[10]
- issue associated with the name of the process (i.e., some respondents indicated that use of the word conciliation created an expectation of a negotiation process which isn't the case when determining child support costs were which are dictated by the federal child support guidelines);
- issues raised about shuttle conciliation and one party not knowing what the other party was saying to the conciliator/lawyer etc as the parties were physically in separate rooms;
- issue of power imbalance if one side has a lawyer and the other party doesn't;
- lack of follow-up/enforcement in ensuring that both sides complied with the consent order;
- the level of time delay in getting into conciliation; and,
- issue of two parties being in a small room together when the relationship is negative.

Stakeholder focus groups

Focus group participants identified a number of **positive** aspects of conciliation including:

- conciliation is more humane than court;
- conciliation helped clients to develop their own solutions instead of having one imposed by the court; and
- conciliation was seen as possibly resolving cases faster compared to the previous family court system.

Focus group participants identified a number of **negative** aspects of conciliation including:

- the increased complexity of the new system with conciliation, compared to the previous

[9]The survey results presented are from the client telephone survey.

[10]This was primarily noted by male survey respondents however some female respondents also made comments which were similar in nature.

Family Court system;

- question of whether conciliation was less expensive than going to court;
- confusion regarding the terms conciliation and mediation and how the models differed;
- staffing resources, particularly issues associated with conciliator workload;
- lack of a methodology for matching the number of conciliation service providers to either population served or caseload size at the different court locations;
- the lack of delegation of specific aspects of the conciliator work role to support staff (i.e., Justice Officer II) to streamline the conciliation process;
- the level of acceptance of conciliators among the legal community especially those conciliators without formal legal training; and,
- the need for clarification of roles involving Family Maintenance Income Support Program caseworkers and conciliators.

Implications for Service Delivery:

The results show that the present model of conciliation is effective as a settlement option to court in about half of the cases and is as effective as mediation in resolving conflict. Approximately 38% of all separation and divorce cases entering the system proceed through the settlement component of conciliation and of those over half settle. Only a small percentage of the cases that do not settle at conciliation actually go on to mediation.

Most clients state their preference for the conciliation process over going to court mainly because of the increase in control over their case and a less intimidating alternative to the court process. Clients express a high satisfaction rate for the service and the staff. Service qualities of safety, fairness, and impartiality are rated highly by most clients and the majority of clients are satisfied with the outcome of their cases.

There are issues associated with the length of time to process cases through the conciliation stage with clients facing delays in obtaining an appointment at the intake and conciliation stages. Service standards need to be set and necessary administrative changes made to correct the delay problem including a review of the staffing resources and their workload.

The model of shuttle conciliation needs to be more clearly defined and space requirements established to enable staff to move more easily between parties. The use of office space for conciliation meetings needs to be reviewed and the feasibility of establishing small conference rooms for the sessions examined.

Implications For Further Research/Evaluation:

The phone survey proved to be an effective method of compiling client feedback on the conciliation service and should be repeated in one to two years to monitor client satisfaction and report on any improvements and further changes needed in program design and delivery.

A method of generating case statistics from the civil index, similar to the statistics gathered by reviewing the files, must be developed. Case processing statistics need to be compiled for January to June, 2001.

There is currently no data available on the durability of agreements arrived at through conciliation and a study looking at these agreements, including causes of breakdown, is needed.

3.4 Mediation

Program Description:

Mediation provides an opportunity for parties coming to the Supreme Court (Family Division) to resolve differences in matters relating to custody, access, support or maintenance, and property without going to court.

There are a number of key outcomes associated with mediation including:

1) provide a service which assists in reducing the adversarial nature of cases;
2) provide an appropriate level of cost for clients;
3) resolve cases at the earliest possible stage in litigation process; and,
4) provide the mediation process within an appropriate amount of time (i.e., minimize delay).

Staffing

The program is currently delivered by: a) 11 Roster Mediators - seven who are designated to mediate the issues of custody and access, child support and spousal support, and property and debt (comprehensive) and six trained to mediate custody and access issues only; and b) three court staff (one in each site) who provide a coordination role, as well as, providing the service where necessary. A Mediation Internship Program was in operation for a period of four years (1997 to June 2001) and enabled staff and mediators (now on the Roster) to train under the supervision of an experienced mediator and to meet established criteria of the Department of Justice and Family Mediation Nova Scotia. The program recently ended due to the low number of referrals to mediation.

Caseload

All mediation cases completed during the period April, 1999 and ending May, 2000 were selected for inclusion in the study.[11] There was a total of 166 cases of which 46% were from Metro and 54% were from Cape Breton. Of the 166 cases that started the mediation process, 94 (57%) proceeded to a full alternative dispute resolution (ADR) process.

[11] As all cases completed by mediators were included in the data profile, this was a census rather than a sample of the population so no sampling error is associated with the statistics presented.

Program Costs

The estimated costs of the mediation service for all three locations for fiscal years 1999-2000 and 2000-2001 are:

- 1999 - 2000 - $167,772 ($135, 300 actual fees & travel costs plus $32,472 overhead multiplier of .24).
- 2000 - 2001 - $112,716 ($90,9000 actual fees and travel costs plus $21,816 over head multiplier of .24).

Methodologies Used:

1) Analysis of case data (April, 1999 and ending May, 2000)
2) Telephone survey of mediation clients (August to November 2000)
3) Stakeholder focus groups (November to December 2000)

Key Findings:

Analysis of case data

- The number of mediation cases handled in Cape Breton was slightly larger than in Metro.
- The primary source for mediation referrals was: conciliators (46%) followed by judges (32%).
- The most frequently occurring issue(s) dealt with in mediation were: custody/access followed by child support, whereas in conciliation child support was the most frequently dealt with followed by custody/access.
- Of the cases that went through pre-mediation screening, one-third were screened out.
- Of those cases that went through the mediation process there were 42% that reached a full agreement and 30% that had a partial agreement.[12]
- Of the cases that went through the full mediation process, close to half of the cases were completed in 60 days or less.
- Slightly more than half of the cases (54%) that went through the full mediation process had one mediation session only (2 hours duration per session).
- The most typical type of meeting format for mediation was a joint session, used in 96% of sessions.
- Close to half of the cases (47%) took 2 hours or less.

Client Response

A number of results emerged from the mediation client phone survey:

- The majority of clients (80%) felt they had choice in the process;

[12]In those cases a memorandum of understanding was drafted which may or may not have become a court order.

- The majority of clients (93%) felt that mediation was fair;
- The majority of clients (78%) felt that they could make their views known;
- The majority of clients (96%) felt safe during mediation; and,
- Overall, 60% of survey respondents rated the service, on a 10 point scale, at 7 or higher. [13]

Several **positive** aspects of mediation were identified by respondents including:

- mediation puts decision-making more in the hands of the parties rather than a judge;
- the professionalism of mediation staff; and,
- the fairness/impartiality of the mediator(s).

Several **negative** aspects of mediation were identified by respondents including:

- the amount of paperwork;
- the level of assistance/information provided by mediation staff;
- the durability/enforcement of the agreements reached during mediation;
- the lack of experience on the part of some mediation staff as they were providing the service;
- the inability to bring up information in court relating to a mediation process (e.g., the other party not cooperating);
- the length of time between mediation sessions;
- the use of more than one mediator which reduced privacy/confidentiality of the process;
- the availability of mediators (fly-in service to Cape Breton);
- the length of time available for a mediation session; and,
- the need for male and female mediators on one case to deal with any issue of perceived gender bias on the part of the conciliator.

Stakeholder Response

Focus group participants identified the following **positive** aspects of mediation:

- mediation can produce positive results for clients in terms of resolving issues and having the case dealt with in a forum outside of court.

Focus group participants identified a number of **negative** aspects of mediation including:

- issue of whether domestic violence cases were being appropriately screened out;
- concern that some clients may fear that if they don't participate in mediation that they could be labeled as uncooperative which could be detrimental to their case;
- concern that fee levels may decrease use of mediation service;
- mediation may only be a viable option for clients who are cooperative and willing to work together;

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[13] With some clients the response to this question was influenced by the outcome of their case, for example, if they were not satisfied with their settlement they were likely not satisfied with the service. In the conciliation phone survey separate questions were asked to make the distinction between outcome and client service.

- confusion in terminology in using the words mediation and conciliation;
- concerns that mediation may make the process longer and more expensive for clients as layers of case processing are added;
- issue of whether mediators are drafting orders in a timely and accurate manner;
- problem that clients are dealing with issues already dealt with at conciliation;
- there may be a problem of client expectations in relation to mediation;
- issue of whether mediation leads to delay in obtaining an interim maintenance order; and,
- issue raised of pressure being put on Department of Justice by interest groups to screen out high conflict cases which reduces utilization of service.

Implications for Service Delivery:

Since the time of the study, a number of changes have been made that address many of the problems identified. A Justice Officer IV was assigned coordination of mediation services in each of the locations to improve administrative practices. The interns have finished their training, and the Roster is being utilized, allowing faster access to mediators in Cape Breton, where a fly- in service previously created delays. The concern regarding follow up on agreements (memorandums of understanding) to ensure completion of court orders is being addressed.

The major issue identified by the Bench and Bar is the under-utilization of Mediation Services which they attribute to screening practices that are too stringent. New screening policies and protocols had been implemented in response to concerns raised by stakeholder groups about client safety in the process. The question of whether too many cases are being screened out is being reviewed. Efforts are being made to refer cases to mediation prior to conciliation, where appropriate, to speed up the process, enhance the utilization of mediation and avoid duplication of service. In addition, the forms and screening process are being revamped to be more streamlined, where possible.

The relationship between conciliation and mediation needs to be better defined, and the confusion and lack of clarity addressed. One approach may be to target certain cases for conciliation and others for mediation. For example, all cases of child support and the more straightforward cases of custody and access could be directed to conciliation and the more complex custody and access cases, and those involving property and debt could be directed to mediation. The Mediation Roster might also be used when there is a backlog of cases. Clients going to conciliation could be offered a settlement option following the disclosure and issue identification process. Clients would have the choice of continuing on with the conciliator to try to reach an agreement, if it appeared the case would not require a great deal of additional time and expertise and the conciliator would be considered to be fair and impartial in that case.

The fee schedule now used for mediation would need to be looked at, as it would not be fair that some clients received the service for free through conciliation and others had to pay as they were directed to the Mediation Roster.

Implications For Further Research/Evaluation:

The durability of mediation agreements needs to be examined and could be part of the study that looks at durability of conciliation agreements.

A more expedient method of retrieving case processing statistics must be determined, as with conciliation, and statistics need to be compiled for the fiscal year 2000/01.

The use of ADR with high conflict families needs to be explored to determine whether there are models that could be effective when court is not the preferred option. Links with other ADR initiatives such as Restorative Justice and Community Services could be made to explore a possible pilot project.

3.5 Parent Education Program

Program Description

The Parent Education Program assists parents in identifying the effect of separation and divorce on children and to identify and practice ways to keep children from getting caught in the middle.

There are a number of key outcomes associated with the program:

1. Increase awareness by parents of the impact of their conflict on their children;
2. Improved communication between parents about their children's needs; and,
3. Increased understanding of the court process and options to court.

Staffing

Volunteer lawyers and mental health professionals undergo training and work from prepared scripts to deliver the program. Across the province there are the following:

- In Sydney, there are 61 volunteer facilitators running two programs (each program has four sessions: two attended by the applicant, two attended by the respondent) per month.
- Port Hawkesbury runs two programs per month, using 24 volunteer facilitators.
- In the Halifax Regional Municipality there are 55 volunteer facilitators, offering three programs per month.
- Kentville has 33 volunteer facilitators, offering two programs per month.
- In New Glasgow there are 16 volunteers, running two programs per month.

The program will expand to Antigonish, Bridgewater, Digby, Annapolis, and Yarmouth this fiscal year and plans are underway to expand to Truro and Amherst in 2002/2003.

Caseload

It is estimated that approximately 2000 people participated in parent education programs in the locations of the Halifax Regional Municipality, Sydney, Port Hawkesbury, New Glasgow and Kentville during the **two year** period of April 1999 to March 2001.

Of the clients who provided information on the number of children, the breakdown was as follows: one child, 46%; two children, 36%; three children, 13%; and four or more children, 5%.

Of the clients who provided information on whether they were the applicant or respondent: 65% were the applicant and 35% the respondent.

Program Costs

Estimated costs of the parent education program are:

- 1999 - 2000 fiscal year- $59,784 (includes salary of provincial program development coordinator salary which is federally funded plus actual costs of $8,200 associated with the program plus overhead multiplier of .24 of labour costs).
- 2000 - 2001 fiscal year - $60,884 (includes salary of provincial program development coordinator salary which is federally funded plus actual costs of $9,300 associated with the program plus overhead multiplier of .24 of labour costs).

Methodologies Used

1) Client exit surveys (September, 1999 to March, 2001)
2) Facilitator surveys (July to September, 2000 - Metro; January to February, 2001 - non metro)
3) Telephone survey of clients (April to July 2001)
4) Focus groups (November to December 2000)

Key Findings

Client Response (Exit Survey)
Satisfaction with Program Content and Delivery

Consistently, clients showed a high satisfaction rate with the program content including presentations, presenters, video tapes, and group discussion. This consistency was shown for all locations and throughout the six client exit survey reports. There was no significant variation over the two year period, although the number of suggested changes did reduce over time. The following highlights were noted:

- 95% indicated they were satisfied with the program.
- Consistently, participants indicated that the group discussions were the most useful part of the parent education sessions. In comparing those to the other parts of the program, 45% indicated group discussions to be the most useful, 33% indicated the presentations to be the most useful and 22% indicated the videos to be the most useful.
- 98% indicated they were satisfied with the presenters or facilitators of the Parent

Education Program among the participants.

- 96% indicated they felt safe and secure during the parent education sessions.
- 95% indicated that they would recommend parent education sessions to separating or divorcing couples that have children.
- 83% of participants indicated the Parent Education Program had an impact on increasing understanding of the court process.
- 90% of participants indicated that they were more aware of other options to court such as mediation and conciliation after completing the program.
- 92% of participants indicated the Parent Education Program helped parents to reduce the impact of separation and/or divorce on children.
- 68% indicated the Parent Education Program would help reduce the level of conflict in their situation [14][note: expected outcome is awareness of impact of conflict].

A review of suggested changes and comments showed recurring themes leading to the following:

- allow more sessions or more time per session for more in depth coverage of the material;
- participation in the sessions early on before attending conciliation and court;
- smaller group size to enable participation;
- more focus on the children;
- allow attendance of others involved in the children's lives such as future step parents and grand parents;
- additional or alternative sessions for people who have not lived with the other parent or for parents not directly involved in the care of their children, family violence or high conflict situations, and for children and adolescents;
- more information on the court process including other services; and,
- updated videos.

Client Response [15]

Effects of Program:

- a minority of participants (44%) indicated that the program had improved communication between them and their ex-partner.
- a minority of participants (46%) indicated the program had improved cooperation between the parties.
- a minority of participants (24%) indicated that they had encountered barriers in attending the Parent Education Program.[16]

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[14]The expected outcome was really awareness of the impact of conflict although the question asked went further in examining change in behaviour.

[15] The results presented are from the telephone survey of clients. About half of the sample who were phoned for the conciliation survey indicated that they had participated in the Parent Education Program.

[16]These are described further in this report in the *Stakeholder Response* and mainly relate to difficulties with transportation and childcare.

Facilitator Response

The following was noted:

- Overall satisfaction with the program was very high - 96%.
- The satisfaction with the program scripts was very high - 97%.
- Suggested changes included the following:
  - provide a better lay-out of the script;
  - facilitators should more closely follow the script;
  - the script should be updated to be more in keeping with the changes in the system including Rule 70, domestic violence screening and safety, and the use of Family Division forms such as the Parenting Statement;
  - more focus on the impact of the children in the first session and less focus on the legal component;
  - generally, there should be more focus on communication skills between ex-partners and a greater emphasis placed on the well-being of the children;
  - most facilitators were satisfied with the hand-outs in the program (there were suggestions made to improve the quality of the hand-outs, for example, to use original documents rather than photocopies);
  - more information on mental health services and other sources of support as well as an updated mediator list; and
  - more information related to child development and problem-solving.
- The largest percentage of respondents (52%) noted that they were somewhat satisfied with the average size of the parent education class. 40% indicated they were completely satisfied and 8% indicated that they were not satisfied. When asked to suggest the optimal class size for a parent education session, the metro facilitators indicated 15-25 participants and in the non-metro, 10-20 participants.
- Most facilitators were completely satisfied with the location of the parent education sessions; 51% completely satisfied, 41% somewhat satisfied and 9% not satisfied. Those who were not satisfied indicated that the space was inadequate in some way such as uncomfortable seating, poor circulation, space too small for the group size and generally not conducive to encouraging group participation.
- High satisfaction indicated with the teamwork - 67% were completely satisfied and 33% somewhat satisfied. There was some concern expressed that facilitators are not utilized often enough and that there could be more consistency among teams.
- 95% indicated satisfaction with the training they received. Suggestions included: more refresher or updated sessions, reorganizing of the binder, and training done closer to the time of actually delivering the program.
- 98% indicated satisfaction with the coordination or management of the program. Suggestions included more avenues for feedback on an ongoing basis, too much emphasis or responsibility placed on volunteers to deliver the program, and some changes in scheduling to allow for more sessions.

Stakeholder Response

The following were noted:

- Participants were generally positive regarding the Parent Education program including the fact that parents get to mix with court professionals which can help to reduce anxiety in going to court
- Some of the participants were positive towards the mandatory nature of the program.
- There were issues related to the **structure/administration** of the program: the timing of program delivery and whether parents were necessarily ready at the time it is delivered; whether it is desirable to have a mandatory program delivered by volunteers;
  concern by some regarding the impact on clients of having to participate in a session (or sessions) which involved a judge they had previously dealt with, or a lawyer who had represented the other party in the case; suggestion to have representatives of transition houses participate in the program in the Sydney area; and suggestion in Port Hawkesbury that it would be beneficial to have more involvement of the local judiciary in the program.
- There were problems raised regarding **accessibility** of the program: challenges for those in low-income situations in terms of the need to pay for child-care and for transportation; suggestion in Metro to have the program at more than one location to make it easier for clients; and suggestion that Community Services could provide funding to low-income individuals to attend Parent Education.
- There were issues raised regarding the **content/curriculum** of the program: clients don't like the name of the program as it was seen as suggesting a deficiency in parenting skills; whether the program provides a sufficient level of intervention for clients (i.e., does it last long enough to have much of a lasting positive impact); need for appropriate multi-cultural content; need for language services for non-English speakers - should be French language services for attendees if they are required to attend and their first language is French; need for content relating to step-parents; and need for content relating to domestic violence issues - may be too pro-ADR with individuals in an abusive situation; 'I-messages' component in the curriculum may not work for abusive relationships.
- There was a suggestion that there should be better **resources/materials** available such as audiotapes, videotapes, material on a Web site and a list of contacts/resources.

Implications for Service Delivery

The Parent Education Program consistently receives a high level of satisfaction from clients and stakeholders. As a result of reports on client and facilitator feedback, the Parent Education Advisory Committee suggested minor changes to the script to improve the lay out and flow and to increase the focus on the children in the first session. A training team was established to build consistency in training to the sites and agreed that facilitator teams would be set up where possible to enable consistency in delivery.

A review of the Family Mediation Canada (FMC) report *Best Practices in Parent Information and Education Programs After Separation and Divorce* (February 2001), which looked at parent education programs across the country, showed there was consistency with the results of the Family Division evaluation. The report noted the need for parent education programs to consider the following:

- provide more information on violence and high conflict;
- lengthen the programs;
- organize different groups for parents and children based on needs;

- provide more information on legal, financial and ADR issues;
- deliver the program earlier in the separation process;
- include more information on children's issues and how to help them;
- make improvements to the videos;
- include more information on other resources and sources of support;
- include more time for discussion;
- have smaller groups, and,
- make the programs mandatory.

The FMC study also reported on the impact of the parent education programs in their sample. The study showed a reduction in several aspects of conflict; increased cooperation with the other parent after 3 - 4 months; and, observed improvements in their children's adjustment. In contrast to the Family Division program, many other parent education programs in the country have expected outcomes beyond education to include behaviour change utilizing therapeutic-based models and paid facilitators.

The goals of the Parent Education Program need to be reviewed and clear outcomes and indicators established. The mandatory nature and education focus of the Program should be maintained and expectations regarding impact on level of conflict, communication and cooperation between the parties should be discussed and realistic outcomes established given the parameters of the program. Partnerships should be established with other community groups and government agencies, where possible, to deliver other programs to meet the needs of court clients such as those in high conflict situations.

Implications For Further Research/Evaluation:

The client feedback forms provide a good method for monitoring client satisfaction. A better understanding of the impacts of the program needs to be undertaken once the program outcomes have been aligned with the goals of the Family Division.

3.6 Assessments

Program Description:

Staffing

In the Halifax Regional Municipality there are 37 people on the Roster providing assessments in custody and access cases at a rate of $65.00 per hour. In Sydney there are seven social workers conducting this service and in Port Hawkesbury there is one assessor utilized from the Sydney Roster, as required.

Caseload

The number of custody and access assessments conducted for the Halifax Regional Municipality were 48 from April 1999 to March 31, 2000 and 71 from April 2000 to March 31, 2001 for a total of 119 for

the two year period. During this same two year period Sydney had six assessments and Port Hawkesbury had two assessments.

Program Costs

In the Halifax Regional Municipality the amount paid to assessors was $125,500 for 1999 - 2000 (average cost of $2,615 per assessment) and $133,400 from 2000 - 2001 (average cost of $1,879 per assessment).

In Sydney the amount paid to assessors was $11,400 for 1999 - 2000 assessment and for 2000 - 2001 $13,900. Based on the 6 assessments over the two year period the average cost per assessment was $4,217.

In Port Hawkesbury the amount paid to assessors was $7,300 for 1999 - 2000 assessment (average cost per assessment was $3,650. There were no fees paid to assessors for 2000.

Methodologies Used

1) Focus groups (November to December 2000)

Key Findings:

Stakeholder Response

There were issues raised related to administration of assessments (although the evaluation did not focus on this service) as part of court process during focus group discussions, that included:

- delays in the assessment process could have a negative impact on young children so that the assessment process has to be timely;
- issues raised about the freedom of choice in terms of clients being able to select professionals to perform parenting assessments;
- concerns about costs of assessments;
- concerns regarding availability of psychologists who would work for the government fee scale;
- too much reliance on psychological testing rather than the type of report provided by social workers;
- suggestion of more consultation with transition house staff during the process;
- comments about the quality of the assessment process and whether there are adequate quality control mechanisms;
- lawyers would like a venue where they could express concerns, if they have any, about the assessment process;
- work of assessors needs to be reviewed to develop a clear definition of roles and responsibilities with assessors taking a consistent approach to the guidelines; and
- there were comments that there is a need for cultural sensitivity in the assessment process.

3.7 General Court Administration

Focus group discussions with community representatives, lawyers and court staff, during the period November to December 2000 in Halifax, Sydney and Port Hawkesbury, highlighted a number of problem areas in relation to general court administration. The results of the focus groups were presented to court administrators and the Director of Family Court Services Division and a report was compiled outlining the issues and the steps being taken to address the problem areas. Some of these issues were identified earlier in the *Delay Reduction Report* of February 2000. Many of the issues were later described in the *Plan to Address and Manage Concerns Regarding the Operation of the Supreme Court (Family Division) Halifax Regional Municipality*, May 2001.

It is important to note that throughout the focus group sessions there were a number of positive comments made particularly regarding the commitment, hard work and ability of staff to address client's needs in a highly professional manner. The concentration, in the section that follows, is on the concerns raised at the time of the focus groups (November to December 2000). It is also important to note that some of the items may only have been raised by a few participants in one location, whereas others may have been recurring themes raised by several participants in more than one location. There were some issues where there was a general consensus and others where there was a divergence of opinion.

1. Facilities/Environment

It was noted by both staff and stakeholder groups the need for significant changes, particularly at the Halifax location. Issues identified included:

- inability to properly segregate disputing parties and/or victims of abuse and alleged abusers;
- not enough public washrooms;
- problems with acoustics/soundproofing which impact on privacy and the quality of the court environment;
- lack of rooms for clients and lawyers to meet, for lawyers to gown and for conducting shuttle conciliation;
- the need for a security buzzer system which could be used by conciliators if a problem arises in relation to aggressive/violent clients;
- the lack of adequate file room capabilities and the need for an appropriately-sized elevator to travel to the basement level to make file retrieval/return faster and easier;
- need for ancillary court services such as mediation and parent education to be at the court location;
- concerns about the desirability of having young offender cases dealt with at the same location as family cases, primarily due to issues of increased congestion and impact on clients;
- in Sydney, some comments were made regarding the new space, including the need to improve counter space in court administration to make it easier for work to be done on documents, better access to telephones, fax machines and/or photocopiers by professionals, and concerns that the new glass partition which separates staff from the public in the court administration makes it more difficult for communication;

- desirability of the provision of services in the community where they may be more accessible rather than in a centralized court location (to increase access in Cape Breton region); and,
- in Port Hawkesbury, concern was raised that the situation of the court in the basement of the former residence of a community college is not befitting the dignity of the court.

2. Paperwork/Forms

Staff and stakeholders identified a number of concerns with the design and implementation of the forms as a result of the introduction of *Rule 70*:

- the complexity and length of forms (particularly parenting statement, financial information form and *Divorce Kit*);
- lack of accessibility of forms (in language other than English and posted on Web site);
- some duplication involved in filling out forms for use by different agencies (e.g., the financial information forms filled out for Community Services, Maintenance Enforcement Program and Family Division);
- more paper work has been created and has placed additional work pressures on staff in assisting clients to fill out the forms;
- it was suggested that there is a need for more court staff to assist clients in filling out the forms;
- some stakeholder groups are facing additional work pressures in assisting clients to fill out the forms for the Family Division;
- there were issues raised regarding the role of affidavits in the new Division - inconsistency with *Rule 70*; and,
- some of the judiciary have raised concerns about incorrect and insufficient information being filed with the court.

3. Scheduling of Court Cases

There were a number of **positive** comments relating to staff handling the scheduling function and concern expressed regarding the staff being overworked.

There were a number of issues raised:

- problem of divorce cases being bumped from the schedule by *Children and Family Services Act* and cases under the *Young Offenders Act*;
- issues with the staffing levels for the scheduling function and having a backup person available if scheduling staff are ill or on vacation;
- difficulty scheduling cases in courts through the summer due to vacations of those working in the courts;
- difficulty in reaching the person handling scheduling over the telephone;
- not enough court days in Port Hawkesbury resulting in additional travel/cost in some cases that are transferred to Sydney;
- a need to get emergency cases into court more quickly; and,
- level of delay in the processing of cases may have a more negative impact on those in a low-income situation as their financial situation may be more precarious.

4. Fees/Court Costs

There were issues related to court fees and court costs:

- a general preference expressed for court operations to be financed through tax revenue rather than through user fees;
- charging fees for the mediation service may cause some clients to avoid mediation and instead go to court as they don't have to pay for court time;
- low income individuals may have difficulty paying court fees (i.e. court fees are barriers);
- difficulty for women in domestic violence situations as they may not be able to afford the fee to have a sheriff serve papers and may be forced to serve the papers themselves which can increase risk levels for clients;
- lack of correspondence between the fee level associated with processing a specific form and the amount of work associated with processing it (i.e., if the processing of two different forms takes one hour then the fee for one shouldn't be three times the cost of the other);
- comments that the fees for specific applications are too high (e.g., adoption and family maintenance); and,
- whether conciliation staff should be involved in collecting fees as this may take time away from other work activity and could also possibly impact on their objectivity in handling the case.

5. Case Volume and Case Processing Delays

The problem of high volume of cases and delays in booking intake and conciliation appointments and scheduling court time have been recurring issues reported by staff, clients, lawyers, judiciary, and administrators. This has been a particular problem in the Halifax Family Division where on average, 25 - 30 new files are opened for intake appointments each week.

Delay Reduction Report of February 2000 outlined a number of short and long term strategies. A later report: *Plan to Address and Manage Concerns Regarding the Operation of the Supreme Court (Family Division) Halifax Regional Municipality*, May 2001 reviewed the recommendations of the Delay Report and found that although a number of them had been implemented some were still outstanding. The critical matters outstanding were:

a) replacement of vacant staff positions;
b) renovations to the Halifax court facility; and;
c) discrepancies between established standards set and operations:
   - length of time from filing documents to first appointment with the court officer - it was taking 11 weeks and the standard set was 4 - 6 weeks.
   - length of time from start of an application to completion of conciliation - it was taking 17 or 18 weeks and the standard set was 12 weeks.

It was expected that the problems of court delays would be alleviated with the addition of judicial resources. One new appointment has been made and one is forthcoming.

Other issues that may be contributing factors are:

a) A large percentage of conciliator staff time, approximately 21% as shown by the Time

Use Profile study, is utilized for clerical duties such as data entry, file preparation, file retrieval, photocopying and scheduling. Arranging assessments, particularly now with the fees, also requires staff time. These duties reduce the amount of time that could be used for direct client duties such as conciliation and programming and could be done by clerical staff.

b) There continues to be an underutilization of the mediation service despite efforts to increase referrals. This has been attributed to a number of factors including reluctance of clients to be moved on to another service which is currently in another location for which there is a fee; increased screening to ensure mediation is voluntary and safe; and the increasing skill level of court staff and their ability to resolve disputes at the conciliation stage.

As well a number of pressures contribute to the workload on the courts:

- A high number of self-represented litigants - 52% were unrepresented during the conciliation process.[17]
- Limited Legal Aid resources contributes to the number of self represented litigants and places higher expectations on staff to fulfill functions that otherwise would be done by lawyers.
- Availability of self help kits including the *Divorce Kit* creates additional administration time for staff. Clients request assistance from staff to complete the self-help kits causing line-ups at the document filing counter. It is anticipated that the installation of the computer stations for client use will decrease some of the workload.
- A high number of referrals from Community Services (F.M.I.S.) for variations of support.
- High conflict families and those experiencing spousal abuse place additional demands on staff time and require additional services and programs to meet their needs.
- Pressure from interest groups who want increased screening of cases to prevent mediation in cases where mediation is seen to be inappropriate.
- Staff turnover resulting in a loss of expertise and increased workload for remaining staff. Recruitment and staff training takes time.

Implications for Service Delivery:

A number of issues raised have been addressed or clarified including:

- Security has been enhanced by a new radio system provided by Sheriff Services.
- A place of safety is available for disputing parties when requested. Parties wait in court (as opposed to waiting rooms) where there is security.
- A buzzer system for conciliators is included in the renovations.
- A new court is being planned for Port Hawkesbury.
- Recommendations have gone to the committee that is examining changes to *Rule 70.*

[17]Staff have estimated that it could be as high as 70% at the point of intake.

- Consideration is being given to what steps/work could be eliminated for court staff through streamlining or simplification of forms and process and ways to ensure accuracy of information.
- French language forms will be developed when the Heritage Canada Project is approved.
- A dialogue has started in Metro with Community Services staff and MEP staff and is expected to expand to Cape Breton to consider changes to financial forms for greater consistency.
- Scheduling problems have been identified and are being addressed.
- Additional judicial resources in HRM and Cape Breton will assist with addressing cases more expeditiously when bumped and getting emergencies into court, although that is not usually a problem.
- Judicial presence in Port Hawkesbury will be increased (which will positively impact Sydney) when the court is expanded.

Issues outstanding include:

- sufficient space for shuttle conciliation remains a concern; and,
- a full review of legislation is required of *Family and Children and Services Act* cases.

Further Areas of Research/Evaluation:

It was suggested, during focus group discussions, that a statistical measure of court delay be developed which could be reviewed to indicate the level and change of delay occurring. Another suggestion was the development of an automated scheduling package for the court.

4.0 CONCLUSIONS AND RECOMMENDATIONS

The direction of the Family Division has generally been viewed as positive in that it is placing less emphasis on the traditional adversarial approach and has the ability to have all remedies provided in one place, with no split jurisdiction, as was previously the case.

The goal of providing effective family law dispute resolution mechanisms is only partially being realized. The Family Division is successfully diverting almost half of its cases to an ADR process, therefore, aiming to resolve cases at the earliest possible stage of the court process. Of those cases being diverted, over half are reaching a settlement outside of court, thus reducing the percentage of cases going to court by approximately 25%. This has an expected outcome of reducing the adversarial nature of those cases that do not proceed to court. The problems with court delays, however, make the system less effective in enabling cases to be resolved in a timely manner and lessening any negative impact of separation and/or divorce on family functioning. The extent to which the court has an appropriate level of cost for clients/litigants is not yet determined. It is known that over half of the clients are self represented and therefore proceeding through the court process without legal costs.

The goal of achieving a high level of client and stakeholder group satisfaction with services offered is being met for parent education and conciliation and to a lesser extent for mediation. Improvements have been made to mediation services that should result in increased satisfaction by clients. There continues to be some debate among stakeholders regarding which cases should be screened out of mediation. According to client survey results, the system is perceived as providing a fair resolution of cases in both conciliation and mediation.

The goal of ensuring effective, efficient and economical administrative practices is not being fully realized. Case processing delays and other issues listed in Section 4.7 point to the need for improvements to be made to reach expected outcomes. The extent to which the system operates in an economical manner needs to be determined.

It is not clearly understood to what extent the goal of providing a positive work environment for staff of the Family Division is being met. The high client satisfaction rate with the performance of staff may be one indication that the outcome of well-trained staff is being met. Staff did indicate that the transition period in changing from the old Family Court system to the new Family Division was challenging and did create additional work pressures in some areas. Some staff members also suggested that there was a need for further training in specific areas.

The outcome of good work conditions needs to be better understood. It is known that some of the problems raised in the focus groups, particularly with the Halifax facility, have an impact on the ability of staff to conduct their work, for example, the lack of adequate file room capabilities and space for shuttle conciliation.

Recommendations are presented in two areas including service delivery and research/evaluation:

Service Delivery

1. Review the Family Division goals and revisit the original vision of a service centre as part of the Family Division to determine priorities and direction in relation to meeting client needs for information, education and case resolution.

2. Clarify and align outcomes and indicators of success for parent education, conciliation, mediation and other operating programs to help assess their effectiveness and future direction within the current financial context.

3. Clarify the relationship between mediation and conciliation and streamline the process where possible with reduction in duplication and better targeting of cases to improve effectiveness and efficiency throughout the court process.

4. Establish partnerships with other community groups and government agencies, where possible, to deliver other programs to meet the needs of court clients such as those in high conflict situations.

5. Give priority to revision of forms to reduce paperwork.

6. Establish quality service standards and audit/evaluation process.

7. Establish an operational plan to reduce the court delays and monitor its effectiveness including:
   - an assessment of the ability of current staffing resources to address caseload demands in an effective and efficient manner and in accordance with established standards;
   - strategies for streamlining administrative processes;
   - strategies for utilizing administrative staff to reduce clerical duties of conciliators; and
   - strategies for more quickly filling or responding to staff vacancies where the loss could contribute to delays.

8. Communicate evaluation results and priorities established and progress to stakeholders.

Research/Evaluation

9. Revisit evaluation framework and evaluation planning.

10. Develop improved methods for retrieving case processing statistics.

11. Develop case processing statistics for fiscal year 2000/01 for conciliation and mediation

12. Determine the duration of conciliation/mediation agreements and any causes of breakdown.

13. Determine satisfaction rates for staff.

14. Complete a cost-effectiveness study looking at mediation and conciliation.

15. Conduct a follow-up survey of Parent Education participants to determine impacts of program.

16. Conduct an analysis of the time and flow of case processing.

17. Determine the level of case "bumping" for CFSA matters.

18. Determine the a plan for the evaluation of the other programs/services.

REFERENCES

Internal Evaluation Reports

The following reports were prepared by Robert Roe, Evaluation Coordinator of Policy, Planning and Research Division. Cheryl Hebert, Consultant in ADR/Mediation with Court Services Division, provided assistance with evaluation design, instrument design, administration of studies, and interpretation of results.

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2. *Client Feedback Report*, January to March, 2000
3. *Client Feedback Report*, April to June, 2000
4. *Client Feedback Report*, July to September, 2000
5. *Client Feedback Report*, October to December, 2000
6. *Client Feedback Report*, January to March, 2001
7. *Parent Education Program Participant Comments By Theme Area: A Statistical Summary*, April 2001
8. *Parent Education Facilitator Survey, Metro Facilitators*, April 3, 2001
9. *Parent Education Facilitator Survey, Non-Metro Facilitators*, April 3, 2001
10. *Summary Report: Mediation Case Processing Statistics*, April, 2001
11. *Mediation Client Survey*, April, 2001
12. *Summary Report: Conciliation Case Processing Statistics*, August, 2001
13. *Conciliation Client Survey*, August, 2001
14. *Time Use Profile - Family Division Conciliation Staff*, January 15, 2001

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Delay Reduction Report, February 2000.

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Nova Scotia Court Structure Task Force (March 1991). *Report of the Nova Scotia Court Structure Task Force*. Halifax: Province of Nova Scotia.

APPENDIX A: CONCILIATION AND MEDIATION CASE PROCESSING

Figure 1A: Conciliation

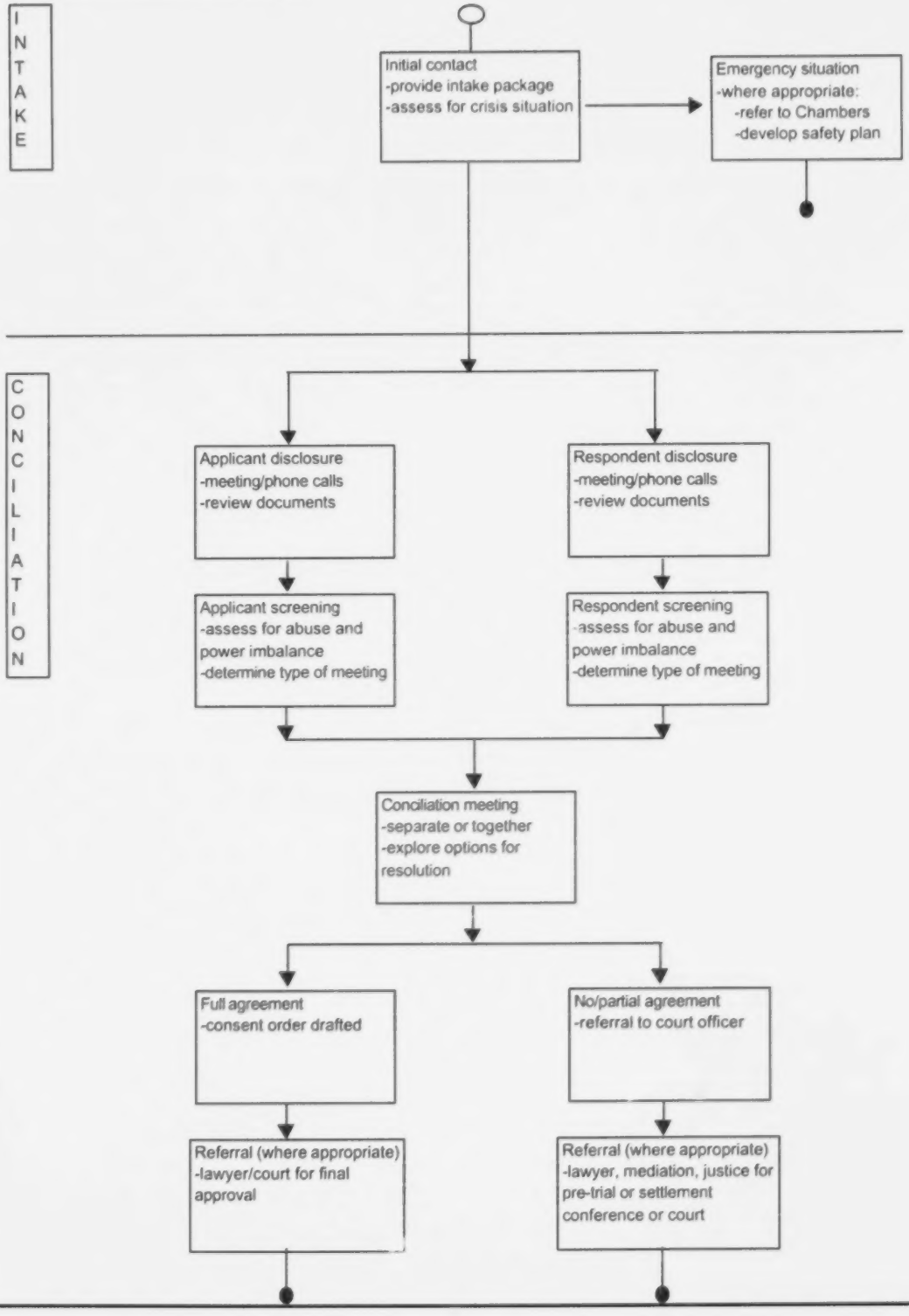
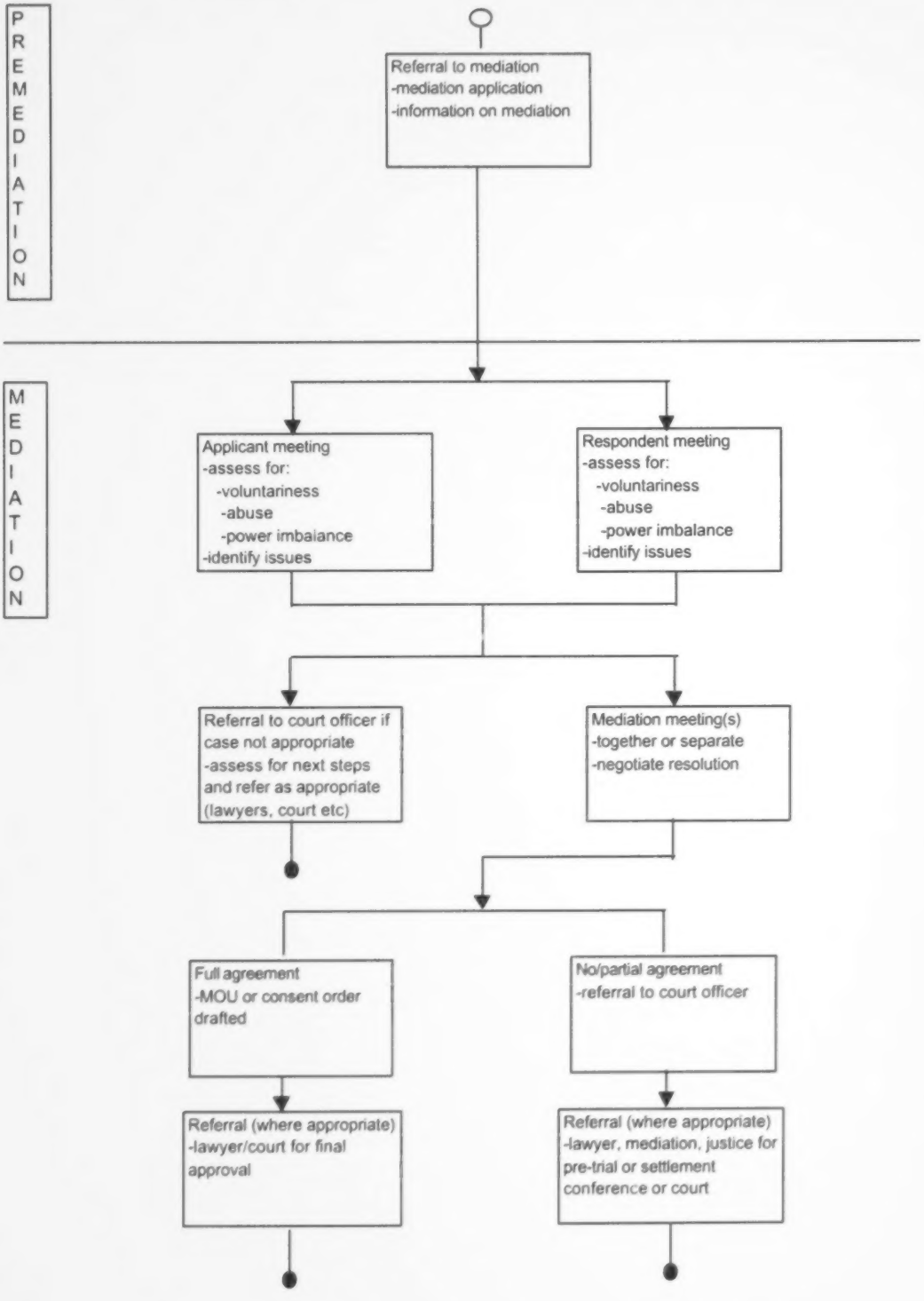


Figure 1B: Mediation



APPENDIX B: CURRENT STAFF COMPLEMENT AND DUTIES

STAFFING AT FAMILY DIVISION SITES AS OF NOVEMBER 1, 2001				
Positions	**Halifax**	**Sydney**	**Port Hawkesbury**	**Main Duties**
Court Administrator	1 permanent		1 permanent (also responsible for Antigonish)	Responsible for the administration of the court, budget management and staffing.
Supervisor, Court Administration - Family Services Centre	1 permanent	1 permanent (responsible for 3 courts)		Supervisor for conciliation, client services, programming In Sydney also Justice of the Peace, Administration of 3 court levels.
Supervisor, Judicial Support	1 permanent	1 permanent (responsible for 3 courts)		Assignment of Judicial Assistants to the Justices of the court, training, delegating workload, and performance management
J04 (Court Officer)	5 permanent (1 doing 50%med., 50%concil.) 2 permanent vacant (will be filled by casuals end of Nov./01) 1 casual (expiry March 31/2002)	4 permanent (1 doing part-time mediation and 1 doing parent ed program) 1 term (expiry date June 28/02)	1 permanent (conciliation & mediation) 1 term (expiry date Sept. 2001)	Intake, Conciliation, Case Management, Community Education, Information, and Programming (parent ed, coordination of mediation) Program Development (has provincial, as well as, regional focus)
JO3 (Ct Admin.)	2 permanent 1 permanent (vacant - posting Nov./01)	1 permanent (for 3 courts for all matters)		Scheduling, meeting with clients/counsel, judges, rota, monitoring docket

JO2 (Ct Admin.)	**5 permanent 1 permanent (LTD) 1 permanent (maternity leave - posting to fill with term)**	**2 permanent 1 casual (expiry date Dec. 31/01)**	**1 casual 50 - 60% time clerical for Family Div.)**	**Divorce, accounts, document filing, reception, filing, packages, collecting fees, scheduling for mediation, etc.**
JO3 (Judicial Support)	**10 permanent**	**6 permanent**	**1 acting court reporter**	**Judicial support to judges and court**
Chief's Judicial Assistant	**1 permanent (also judicial support)**			**Administrative support to A.C.J. and judicial support.**
J02 (Child Support Guidelines Intake Assistant, Fed. $)	**1 term (expiry 2002) 1 casual (to begin Nov. 15 until March 31/02)**	**1 term (expiry date Mar. 2002) 1 term (vacant)**		**Child Support Guidelines Recalculation**
Total # Positions	**34[18]**	**19[19]**	**5[20]**	
Total # Staff	**27**	**18**	**5**	

[18]The J04 position of Program Development Coordinator is only partially dedicated to the Family Division of the Halifax Region.

[19]In Sydney, the supervisor, judicial support and the J03 court administrator are only partially dedicated to the Family Division.

[20]In Port Hawkesbury the court administrator and the J02 court administrator are only partially dedicated to the Family Division.

JO2 (Ct Admin.)	**5 permanent 1 permanent (LTD) 1 permanent (maternity leave - posting to fill with term)**	**2 permanent 1 casual (expiry date Dec. 31/01)**	**1 casual 50 - 60% time clerical for Family Div.)**	**Divorce, accounts, document filing, reception, filing, packages, collecting fees, scheduling for mediation, etc.**
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Total # Positions	**34**[18]	**19**[19]	**5**[20]	
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[19]In Sydney, the supervisor, judicial support and the J03 court administrator are only partially dedicated to the Family Division.

[20]In Port Hawkesbury the court administrator and the J02 court administrator are only partially dedicated to the Family Division.

APPENDIX C: METHODOLOGY

This section will briefly describe the different strategies used to gather the information which appears in this report. The strategies employed will be described in relation to each of the major projects undertaken. Data collection forms and questionnaires/interview guides are contained in the original reports associated with each of these projects.

Conciliation Case Processing Profile

This section of the report outlines the methodology used in selecting the cases for the case processing profile and client survey for the Conciliation services of the Family Division. There were a number of issues which arose during the data collection and analysis process(es) which will be commented upon.

Case Selection

The first stage of the sampling process involved obtaining a download/extract of cases from the Family Division Information System. This download provided the initial population of cases on which sampling was based. Cases selected for the population were those that were initiated for the period January to June, 2000. This time period was selected as the Family Division had been operational for a period of approximately 10 months. At this point, the cases for both the Metro Halifax and Sydney court locations were entered on the system; however, the system was not yet operational for Port Hawkesbury necessitating a different process than the one currently described for Metro Halifax and Sydney.[21]

In total, there were 2214 cases initiated at the Metro Halifax and Sydney Family Division locations during the specified time period. A breakdown by location indicated that there were 1530 cases from Metro and 684 from Sydney. Of the 2214 cases, there were 98 cases eliminated as they were not *Divorce Act* cases or *Family Maintenance Act* cases (i.e., the cases involved *Children and Family Services Act* cases) leaving 2116 eligible cases for inclusion in the sample.

Of the 2116 cases, there were 47% that were *Family Maintenance Act* cases and 39% that were *Divorce Act* cases with the remaining 14% being 'other' types of cases (e.g., Maintenance Enforcement Act, peace bond, change of name etc). It was noted that there were marked variations between Cape Breton and Halifax Metro in terms of the percentages of the cases that were Family Maintenance Act (Halifax Metro 42% vs. Cape Breton 59%) and *Divorce Act* (Halifax Metro 47% vs. Cape Breton 21%).

Case Processing Profile

Subsequent to obtaining the download/extract, a systematic random sample of cases was performed to create a list for review by the conciliators to determine whether a specific case had gone through the conciliation alternative dispute resolution (ADR) process. The review of the data provided by the conciliators ,indicated that 38% of the cases had received such a service while 62% had not. This would

[21] In Port Hawkesbury a staff member manually reviewed the files and coded data sheets for all of the cases, that he could identify, that proceeded through conciliation. Consequently, the data for Port Hawkesbury is the population of conciliation cases rather than a sample of conciliation cases. The total number of cases was 27.

suggest that the overall population of conciliation ADR cases during the time period January to June, 2000, was 804 (i.e., 2116 multiplied by 38%). Consequently, the overall sample size appropriate for a population of this size would be approximately 260 cases at a 95% (+/-5%) confidence level/interval.

The conciliation staff, assisted by administrative staff of the Court Services Division and a staff member of the Policy, Planning and Research Division, coded data sheets for conciliation cases based on a random sample of cases initiated in the Family Division and selecting only those that had gone through an ADR process. The coding of cases continued until a sample of 256 cases was generated.[22] Data was collected in a number of key areas including:

- Case number;
- Court location;
- Date initiated and completed;
- Legal representation on case;
- Outcome of the conciliation process;
- Referrals associated with the case;
- Information pertaining to the sessions (i.e., type, parties attending, number of meetings); and,
- Conciliation issues.

In addition to capturing the above information at the time of initial case processing, there was also data captured if the case was returned to the conciliator for any subsequent processing. This additional data provided information on whether the case had gone through more than one cycle of conciliation, what triggered the return to conciliation and what the outcome was associated with each additional stage of processing. Finally, a breakdown of the data by region was provided to allow for a comparison of Cape Breton and Halifax/Metro.

Conciliation Client Survey(s)

A. Telephone survey -The cases selected for the case processing profile were subsequently used to create a list of clients for a short telephone survey conducted during the period April to July, 2001. A survey instrument was developed, piloted, revised and finalized based upon the initial interviews conducted.[23] Male clients were predominantly interviewed by a male interviewer (> 95%) and female clients were predominantly interviewed by a female interviewer (>95%). This strategy was adopted to help reduce any response biases by interviewees in relation to them reporting any issues encountered which related to gender (i.e., men or women being treated less fairly by the courts, personal safety/domestic violence etc).

In total, there were 250 court cases for which data had been collected in the case processing profile. Typically associated with each of these cases were two parties - an applicant and a respondent.[24] This

[22]It should be noted that this is just slightly below the required sample size of 260.

[23] A copy of the survey instrument appears at the end of this appendix.

[24] In a small number of cases, there were more than two parties associated with the case. For example, in some cases grandparents of a child might be associated with the case as a party.

would mean that there were a total of 512 potential interviewees (i.e., 256 cases with 2 interviewees each) to be surveyed. A total of 215 clients were contacted and agreed to be interviewed, totaling 42% of the original sample drawn. Of those clients who did not participate in the survey there were three primary reasons:

- contact couldn't be made as there was no telephone number in the court file, the client had moved, the client's number had been disconnected or changed to an unlisted number;
- the client refused to participate; or,
- some other reason (e.g., the client indicated that they couldn't remember the details associated with receiving the service, the client hadn't finished the conciliation process etc).

Of the reasons for no contact occurring, the most usual reason (76%) was that no contact was made while the percentage of clients refusing (4%) occurred least frequently. The 'other' category accounted for the remaining 20% of the respondents.

As the percentage of clients on the original survey list who were contacted and agreed to be interviewed was below 50%, a weighting procedure was used to adjust the overall percentages for any biases detected in the survey sample. Two specific variables were chosen - gender and region as it was possible to estimate the overall percentage of the population for the different categories of these variables and then compare them to the percentages found in the survey sample.[25] When comparing the sample to the population it was noted that there was a higher percentage of females in the sample and a greater number of clients from Cape Breton compared to their percentage in the population. To adjust for bias in the overall percentages reported, a weighting procedure was employed. It was found that after using the weighting procedure that the overall percentages changed only marginally. As substantial change did not occur between the weighted scores and the original scores, the original scores are presented in this report.

B. Exit survey - During the period January to March, 2000 conciliators at the different court locations provided clients with a copy of an exit survey for them to fill out at the completion of the conciliation process.[26] A total of 162 exit surveys were completed and analyzed. It was estimated that this corresponded to approximately 20% of the clients proceeding through conciliation during that time frame.

Conciliator Time Use Profile

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[25]In the case of gender, the approximate distribution would be 50% males and 50% females. For region, the weighting was based on the percentage of cases initiated in the Family Division at the Metro and Sydney locations. Unfortunately, there were no population statistics for case outcome so that it was not possible to check for biases in the sample overall on this factor.

[26] It should be noted that it is the results of the telephone survey which appear in this report rather than the results of the exit survey. This decision was made as the telephone survey had a more rigorous process of data collection associated with it. The results of the exit survey tended to be quite similar to those obtained through the telephone survey, with the only notable difference being a lower level of client satisfaction found among those who were surveyed by telephone.

During the period October 30 to December 1, 2000 conciliators in Metro Halifax and in Cape Breton recorded the amount of time spent in several key areas including: direct client contact, case/client preparation work, administrative work, professional development and travel. This data was summarized to create a time use profile for the conciliators.

Mediation Case Processing Profile

This section of the report outlines the methodology used in selecting the cases for the case processing profile and client survey for the Mediation services of the Family Division.

Case Selection

All mediation cases completed during the period April, 1999 and ending May, 2000 were selected for inclusion in the study.[27] There was a total of 166 cases of which 46% were from Metro and 54% were from Cape Breton. Of the 166 cases that started the mediation process, 94 (57%) proceeded to a full alternative dispute resolution (ADR) process.

Case Processing Profile

Subsequent to identifying all cases for inclusion in the study, court staff assisted by administrative staff of the Court Services Division coded data sheets for the mediation cases to profile the cases on a select group of characteristics including:

- Case number;
- Court location;
- Date initiated and completed;
- Legal representation on case;
- Outcome of the mediation process;
- Referrals associated with the case;
- Information pertaining to the sessions (i.e., type, parties attending, number of meetings, length of time per session); and,
- Mediation issues.

Mediation Client Survey

During the period August to November, 2000 a telephone survey of mediation clients was conducted to obtain feedback in relation to the mediation service. The clients selected for participation were those whose case had been selected for the mediation case processing profile project.

A copy of the mediation questionnaire was piloted and revised based on issues identified during the pilot

[27] As all cases completed by mediators were included in the data profile, this was a census rather than a sample of the population so no sampling error is associated with the statistics presented.

process. Male clients were predominantly interviewed by a male interviewer (> 95%) and female clients were predominantly interviewed by a female interviewer (>95%). This strategy was adopted to help reduce any response biases by interviewees in relation to them reporting any issues encountered which related to gender (i.e., men or women being treated less fairly by the courts, personal safety/domestic violence etc.).

There were a total of 94 cases selected with two participants per case resulting in a population of 188 clients.[28] Of the 188 clients that potentially could have been interviewed, there were 93 surveys completed or 50% of the research population. For those clients who did not participate the most frequent reason was no contact could be made due to a change in the telephone number or the telephone being disconnected.[29]

To check for biases in response among those who participated in the mediation telephone survey, the clients were profiled on three different characteristics - location, gender and type of agreement reached. The profiling of the sample on the three characteristics versus the profile of the population on the three characteristics indicated that there was no marked difference between the sample and the population suggesting that the sample was representative on these dimensions.

Parent Education Surveys

A. Client exit survey - During the period September, 1999 to March, 2001 clients of the Parent Education program were provided with exit surveys to provide feedback on the program. In total, there were 1802 exit surveys received from clients who received the service. There were a series of six reports generated on a quarterly basis during the first two years of operation of the Family Division. Administrative staff with the Court Services Division estimated that the overall number of clients was approximately 2000 indicating that 90% of those receiving the service provided feedback.

B. Program facilitator survey - Two separate surveys were run of program facilitators, one for Metro facilitators and one for non-Metro facilitators. The first survey conducted was for Halifax Metro facilitators and occurred between July to September, 2000 and to which 38 of the 56 facilitators responded (68%). The second survey was for non-Metro facilitators during the period January to February, 2001 and to which 79 of the 129 facilitators responded (61%).

C. Telephone survey - The telephone survey of Parent Education participants was an add-on to the conciliation client telephone survey described earlier. In total, feedback was received from 93 program clients. The questions on the survey instrument dealt with issues such as whether clients in the program faced any barriers in attending and if the program had improved the cooperation/communication between the parties. It should be noted that as the original purpose of the survey was to gain information from Conciliation clients rather than Parent Education clients, there may be issues of representativeness associated with the sample as it was not a random sample of Parent Education clients.

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[28]There is a simplifying assumption used that there are only 2 parties per case in the large majority of cases.

[29]Unlike the conciliation telephone survey, there was no formal analysis of no responses conducted for the mediation telephone survey.

Stakeholder Focus Groups

A series of focus groups with internal and external stakeholders was conducted during the period November - December, 2000 and included participation from the following:

- community representatives in the Halifax Regional Municipality and Cape Breton;
- lawyers from the Halifax Regional Municipality and Cape Breton; and,
- court staff including Justice Officers 2 (court support staff), Justice Officers 3 (court reporters) and Justice Officers 4 (conciliators).

In total, there were 13 focus group sessions conducted in the locations of Halifax, Dartmouth, Port Hawkesbury and Sydney. Approximately 96 people in total participated in the sessions. A complete list of the stakeholder groups and the interview guide employed can be found in the report "Preliminary Summary Report on Focus Groups for Stakeholders".

The results of the focus groups do not necessarily reflect a consensus view as there was a divergence of opinion on some issues. As well, some issues raised were only of concern to a few participants in one location and others were recurring themes raised by several people in more than one location.

APPENDIX D: FAMILY DIVISION CASELOAD - FMA & DIVORCE MATTERS APRIL 1, 2000 - MARCH 31, 2001[30]

New Cases	Halifax	Sydney	Port Hawkesbury
FMA	956	769	68
FMA Variations	406	354	28
Divorce Petitions	959	185	46
Divorce Variations	337	134	15
Total Cases	2658	1442	156
Estimated Intake/Conciliation[31]	1891	1294	120
Estimated Cases No Further Action[32]	454	311	29
Estimated Cases Direct to Chambers[33]	321	220	20
Estimate Cases - Other[34]	239	116	11
Estimated Cases Proceeding to Conciliation Settlement[35]	832	569	53

[30]Statistics taken from civil index on November 16, 2001.

[31]Total number of FMA's, FMA Variations, Contested Divorces (approx. 20% of divorces), and Divorce Variations

[32]Based on 24% of cases going through intake/conciliation where there is no action due to address of respondent unknown, proper documentation not filed, notice of discontinuance filed, no show by either party, referred to lawyer, application dismissed.

[33]Based on 17% of cases going from intake directly to Chambers for emergency application, interim order, provisional, did not respond to execution order to enforce Corollary Relief, change of child's name.

[34]Based on 9% of cases going elsewhere such as, file transferred, division of property, etc.

[35]Based on 44% of cases proceeding from intake to settlement option - 2% of those would be mediation

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APPENDIX E: TERMS AND DEFINITIONS[36]

Alternative Dispute Resolution
Alternative dispute resolution (or ADR) refers to ways to settle disputes or differences without a court trial.

Child Support
Money paid by one parent to the other parent to contribute to the children's living expenses. The amount is based on the non-custodial/non-residential parent's gross annual income and is usually paid every month. (See also Child Support Guidelines.)

Child Support Guidelines
The Child Support Guidelines are rules for calculating how much child support the non-custodial parent will have to pay. The guidelines include support tables for each province and territory. There are also rules for calculating special or extraordinary expenses, claims of undue hardship and child support amounts in cases of split or shared custody. The federal Child Support Guidelines are used when parents are divorcing or already divorced. The provincial Child Maintenance Guidelines are used in all other situations such as when parents were not married to each other, lived together in a common-law relationship, or are married and separated, but not divorcing.

Conciliator
A court officer who is responsible for managing each case and will meet with the parties, either separately or together, to help them with the court process. Conciliators make sure that each party provides all the necessary documents and other information to the court. Conciliators also help to identify the legal issues and help the parties reach agreements if possible and appropriate.

Custody
The term custody includes where the children live and also to the person who is responsible for making the decisions involving the children. Different types of custody are sole custody, joint custody, shared custody and split custody.

Fees
Fees are required by the court to file certain legal documents. For example, a fee must be paid to the court to file a petition for divorce commencing divorce proceedings. Fees may also be charged for certain services provided by the court.

Home Study Assessment
An assessment conducted by a person who has the professional skill to investigate, assess and report to the court on the needs of the children and the ability of the parties to meet those needs of the children. A judge can order an assessment in cases involving custody or access.

Interim Order
A temporary order dealing with some matters until the final decision of the court.

Maintenance
Money paid by a person toward the living expenses of a spouse, child, or dependent parent. (See also child support and spousal support).

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[36]These are selected from the Family Division of the Supreme Court *Terms and Definitions* handout.

Maintenance Enforcement Program (MEP)
All court orders for maintenance or support must be filed through this provincial government program, the payor makes maintenance payments through the program. If the payor fails to make the payments required by the court order, the MEP may take action to enforce the order.

Mediation
Mediation is a type of alternative dispute resolution in which a trained, impartial mediator assists the parties in reaching agreements about issues such as custody and access, and sometimes also child support, spousal support and the division of marriage assets.

Parties
Person or people on one side of a dispute or an agreement. Parties are the people who have the right to appear in court and to seek an order from the court.

Petition for Divorce
A petition is an application which is used to start a divorce. Either spouse may file a petition for divorce with the court, or both spouses may file a joint petition.

Pretrial Settlement Conference
A short meeting with a judge who is not going to be hearing the trial. At this meeting, the parties briefly explain to the judge their own positions on each issue. The judge then gives a brief opinion based on how he or she thinks the case could be resolved. This meeting is used to help settle cases.

Rules of Court
Procedures which must be followed and forms to be used when seeking an order from the court.

Separation
Two people who are married to each other but who are living separate and apart are considered to be officially separated in the eyes of the law. You do not need an official document in order to be "legally" separated.

Spousal Support
Money paid by one spouse to another to contribute to the other's living expenses. The support can be paid either by a set amount every month or one lump sum.

Trial
The contested hearing of a Petition for Divorce or other type of application in a courtroom before a judge.

Variation
A variation is an application to change an existing court order.